

AMENDED IN SENATE JULY 2, 2008
AMENDED IN SENATE JUNE 19, 2008
AMENDED IN SENATE JUNE 12, 2008
AMENDED IN ASSEMBLY APRIL 16, 2008
AMENDED IN ASSEMBLY APRIL 8, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2436

Introduced by Assembly Member Emmerson

February 21, 2008

An act to amend Section 11713.22 of, and to add Sections 331.3 and 11713.23 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2436, as amended, Emmerson. Recreational vehicles: dealer agreements.

(1) Existing law, with regard to dealer and manufacturer agreements involving recreational vehicles, prohibits a licensed manufacturer, manufacturer branch, distributor, or distributor branch, upon mutual agreement of the parties to enter into a dealer agreement, from failing or refusing to provide a written dealer agreement to the recreational vehicle dealer that complies with statutory franchise requirements. A violation of these provisions is a crime.

This bill would *instead provide that under these circumstances, failing or refusing to provide a recreational vehicle franchise, as defined by the bill, that complies with requirements established for that agreement, to the recreational vehicle dealer would be prohibited. The bill*

additionally would prohibit a licensed recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch from selling new recreational vehicles in this state to or through a dealer without having first entered into a written ~~dealer agreement~~ *recreational vehicle franchise* with that recreational vehicle dealer, signed by both parties. A recreational vehicle dealer would be prohibited from selling new recreational vehicles *in this state* without a written ~~dealer agreement~~ *recreational vehicle franchise with a licensed recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch* signed by both parties. ~~A recreational~~

The bill would also prohibit, on or after January 1, 2009, a recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch ~~would also be prohibited~~ from shipping to a recreational vehicle dealer, and a recreational vehicle dealer would be prohibited from receiving *from one of those entities*, a new recreational vehicle on or after January 1, 2009, without a recreational vehicle franchise signed by both parties. The bill would ~~allow~~ *authorize* a new recreational vehicle inventory purchased by a recreational vehicle dealer, or shipped by a recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch, before January 1, 2009, to be sold without a recreational vehicle franchise. This bill would also define recreational vehicle franchise.

Because a violation of this prohibition would be a crime, this bill would impose a state-mandated local program.

~~This bill would make conforming changes.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 331.3 is added to the Vehicle Code, to
- 2 read:
- 3 331.3. A “recreational vehicle franchise” is a written agreement
- 4 between two or more persons having both of the following
- 5 conditions:

1 (a) A commercial relationship of definite duration or continuing
2 indefinite duration.

3 (b) The franchisee is granted the right to offer for sale or lease,
4 or to sell or lease at retail, new recreational vehicles, as defined in
5 subdivision (a) of Section 18010 of the Health and Safety Code,
6 that are manufactured or distributed by the franchisor, or the right
7 to perform authorized warranty repairs and service, or the right to
8 perform any combination of these activities.

9 SEC. 2. Section 11713.22 of the Vehicle Code is amended to
10 read:

11 11713.22. (a) Upon mutual agreement of the parties to enter
12 into a ~~dealer agreement~~ *recreational vehicle franchise*, it is
13 unlawful and a violation of this code for a manufacturer,
14 manufacturer branch, distributor, or distributor branch licensed
15 under this code to fail or refuse to provide a recreational vehicle
16 dealer a ~~written dealer agreement~~ *with a written recreational*
17 *vehicle franchise* that complies with the requirements of Section
18 331.3.

19 (b) ~~An agreement described in subdivision (a)~~ *Notwithstanding*
20 *Section 331.3, a recreational vehicle franchise described in this*
21 *section* shall include, but not be limited to, provisions regarding
22 dealership transfer, dealership termination, sales territory, and
23 reimbursement for costs incurred by the dealer for work related to
24 the manufacturer's warranty for each line-make of recreational
25 vehicle covered by the agreement.

26 (c) This section applies only to a dealer and manufacturer
27 agreement involving recreational vehicles, as defined in subdivision
28 (a) of Section 18010 of the Health and Safety Code, but does not
29 include an agreement with a dealer who deals exclusively in truck
30 campers.

31 SEC. 3. Section 11713.23 is added to the Vehicle Code, to
32 read:

33 11713.23. (a) A recreational vehicle manufacturer,
34 manufacturer branch, distributor, or distributor branch licensed
35 under this code shall not sell a new recreational vehicle in this
36 state to or through a recreational vehicle dealer without having
37 first entered into a ~~written dealer agreement~~ *recreational vehicle*
38 *franchise* with that recreational vehicle dealer, that complies with
39 the requirements of Section 331.3; *and* that has been signed by
40 both parties.

1 (b) A recreational vehicle dealer shall not sell a new recreational
2 vehicle in this state without having first entered into a written
3 ~~dealer agreement~~ *recreational vehicle franchise*, that complies
4 with the requirements of Section 331.3, with a recreational vehicle
5 manufacturer, manufacturer branch, distributor, or distributor
6 branch licensed under this code, that has been signed by both
7 parties.

8 (c) (1) A recreational vehicle manufacturer, manufacturer
9 branch, distributor, or distributor branch shall not ship a new
10 recreational vehicle to a recreational dealer on or after January 1,
11 2009, without a recreational vehicle franchise that has been signed
12 by both parties.

13 (2) A recreational vehicle dealer shall not receive a new
14 recreational vehicle *from a recreational vehicle manufacturer;*
15 *manufacturer branch, distributor, or distributor branch* on or after
16 January 1, 2009, without a recreational vehicle franchise that has
17 been signed by both parties.

18 (d) Any new recreational vehicle inventory that has been
19 purchased by a recreational vehicle dealer, or shipped by a
20 manufacturer, manufacturer branch, distributor, or distributor
21 branch, before January 1, 2009, may be sold at any time without
22 a recreational vehicle franchise.

23 (e) This section applies only to a dealer and manufacturer
24 agreement involving recreational vehicles, as defined in subdivision
25 (a) of Section 18010 of the Health and Safety Code, but does not
26 include an agreement with a dealer who deals exclusively in truck
27 campers.

28 SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.